

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

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|---------------------------|---|------------------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No S1-4:19-CR-00750-RWS |
| |) | |
| BRAD RICE, |) | |
| |) | |
| Defendant. |) | |

GOVERNMENT'S SENTENCING MEMORANDUM

Comes now the United States of America, by and through its attorneys, Jeffrey B. Jensen, United States Attorney for the Eastern District of Missouri, and Diane Klocke, Special Assistant United States Attorney for said District, and files its sentencing memorandum:

On June 30, 2020, the Defendant pled guilty to one count of theft of government funds. As part of the plea agreement, the parties agreed that the total offense level was thirteen, and that the determination of Defendant's criminal history category would be left to the Court. Either party may ask for a sentence that is above or below the guideline range in this case.

The Government respectfully requests that the Court sentence the defendant to a guideline sentence of 15 months. This sentence is within the applicable guideline range of level thirteen (13) in Zone D of the guidelines Sentencing Table.

1. Title 18, United States Code, Section 3553(a) sets out the factors this Court should consider in fashioning an appropriate sentence. One such factor to be considered is the nature and circumstances of the offense, and the history and characteristics of the

defendant. 18 USC 3553 (a)(1). Defendant has a criminal history score of three, establishing a criminal history category of II.

2. As to the nature and circumstances of the offense, the Defendant was actively concealing his work activity and income in order to collect disability benefits from the Social Security Administration. Though Defendant was determined eligible for benefits based on his medical impairments, this was based on Defendant's contention that these impairments rendered him unable to hold gainful employment. However, Defendant was actively working at a family member's business, and Defendant and that family member concealed the extent of the Defendant's work activity by paying Defendant partially in cash. This information is relevant to the facts and circumstances of this case as well as the characteristics of Defendant. The Defendant's lengthy and continued concealment of his abilities and employment from the Social Security Administration, as well as his false statements to the Social Security Administration regarding his employment and physical capabilities, illustrate a pattern of criminal behavior in committing an ongoing offense. A sentence of fifteen months would adequately reflect the defendant's history and characteristics as well as a pattern of criminal conduct evident in the nature and circumstances of this offense.
3. The Court should also consider adequate deterrence to criminal conduct. 18 USC 3553(a)(2)(B). The sentencing in this matter must be adequate to not only deter this defendant from such criminal conduct in the future, but also to deter other individuals from committing this type of crime. A sentence of fifteen months of confinement

would indicate to Defendant and others that this pattern of conduct is criminal, even when it appears the only victim is the United States government, and those who commit this crime will be penalized accordingly.

4. Defendant has an advisory guideline range of punishment of 15 to 21 months in prison under the United States Sentencing Commission Guidelines. Defendant's guideline range of punishment falls in Zone D of the guidelines Sentencing Table. The Government contends that there is no additional basis in law or the underlying facts and circumstances to justify a downward variance to a sentence less than the advisory guideline sentence.

WHEREFORE, the United States of America prays that this Honorable Court sentence defendant to an appropriate term of fifteen (15) months confinement within the advisory guideline range, without a downward variance.

Respectfully submitted,

JEFFREY B. JENSEN
United States Attorney

s/ Diane E.H. Klocke
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CERTIFICATE OF SERVICE

I hereby certify that on October 7, 2020, the foregoing was filed electronically with the Clerk of the Court to be served by email upon the following:

Clark Jones
Defense Counsel

s/ Diane E.H. Klocke
DIANE E.H. KLOCKE, #61670(MO)
Special Assistant United States Attorney